

103^D CONGRESS
2^D SESSION

H. R. 4462

AN ACT

To provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Federal Rec-
5 ognition Administrative Procedures Act of 1994”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1 (1) to establish an administrative procedure to
2 extend Federal recognition to certain Indian groups;

3 (2) to extend to Indian groups which are deter-
4 mined to be Indian tribes the protection, services,
5 and benefits available from the Federal Government
6 pursuant to the Federal trust responsibility;

7 (3) to extend to Indian groups which are deter-
8 mined to be Indian tribes the immunities and privi-
9 leges available to other federally-acknowledged In-
10 dian tribes by virtue of their status as Indian tribes
11 with a government-to-government relationship with
12 the United States;

13 (4) to ensure that when the Federal govern-
14 ment extends acknowledgment to an Indian tribe, it
15 does so with a consistent legal, factual and historical
16 basis;

17 (5) to establish a commission which will act in
18 a supporting role to petitioning groups applying for
19 recognition;

20 (6) to provide clear and consistent standards of
21 administrative review of documented petitions for
22 Federal acknowledgment;

23 (7) to clarify evidentiary standards and expedite
24 the administrative review process by providing ade-
25 quate resources to process petitions; and

1 (8) to remove the Federal acknowledgment
2 process from the Bureau of Indian Affairs and in-
3 vest it in an independent Commission on Indian
4 Recognition.

5 **SEC. 3. DEFINITIONS.**

6 For purposes of this Act:

7 (1) The term “aboriginal group” means any In-
8 dian group or tribe that is presently located in Can-
9 ada or the United States of Mexico and consists of
10 individuals who are descendants of the people who
11 inhabited the area now constituting those two coun-
12 tries prior to their first sustained contact with Euro-
13 Americans.

14 (2) The term “acknowledgment” or “acknowl-
15 edged” means a determination by the Commission
16 on Indian Recognition that an Indian group con-
17 stitutes an Indian tribe with a government-to-gov-
18 ernment relationship with the United States, and
19 whose members are recognized as eligible for the
20 special programs and services provided by the Unit-
21 ed States to Indians because of their status as Indi-
22 ans.

23 (3) The term “autonomous” means the exercise
24 of political influence or authority independent of the
25 control of any other Indian governing entity. Auton-

1 omous must be understood in the context of the his-
2 tory, geography, culture and social organization of
3 the petitioner.

4 (4) The term “Bureau” means the Bureau of
5 Indian Affairs.

6 (5) The term “Commission” means the Com-
7 mission on Indian Recognition established pursuant
8 to section 4.

9 (6) The term “community” means any group of
10 people, living within a reasonable territorial propin-
11 quity, which can demonstrate that consistent inter-
12 actions and significant social relationships exist
13 within its membership and that its members are dif-
14 ferentiated from and identified as distinct from
15 nonmembers. “Community” must be understood in
16 the context of the history, culture and social organi-
17 zation of the group, taking into account the geog-
18 raphy of the region in which they reside.

19 (7) The term “continuously” or “continuous”
20 means extending from the first sustained contact
21 with Euro-Americans throughout the group’s history
22 to the present substantially without interruption.

23 (8) The term “Department” means the Depart-
24 ment of the Interior.

1 (9) The term “documented petition” means the
2 detailed, factual exposition and arguments, including
3 all documentary evidence, necessary to demonstrate
4 that these arguments specifically address the manda-
5 tory criteria established in section 5.

6 (10) The term “historically”, “historical” or
7 “history” means dating from the first sustained con-
8 tact with Euro-Americans.

9 (11) The term “Indian group” or “group”
10 means any Indian, Alaska Native, or Native Hawai-
11 ian tribe, band, pueblo, village or community within
12 the United States that the Secretary of the Interior
13 does not acknowledge to be an Indian tribe.

14 (12) The term “Indian tribe” or “tribe” means
15 any Indian, Alaska Native, or Native Hawaiian
16 tribe, band, pueblo, village or community within the
17 United States that the Secretary of the Interior
18 presently acknowledges to be an Indian tribe.

19 (13) The term “indigenous” means native to
20 the United States in that at least part of the peti-
21 tioner’s traditional territory at the time of first sus-
22 tained contact with Euro-Americans extended into
23 what is now the United States.

24 (14) The term “letter of intent” means an un-
25 documented letter or resolution which is dated and

1 signed by the governing body of an Indian group
2 and submitted to the Commission and indicates the
3 group's intent to submit a petition for Federal ac-
4 knowledgment as an Indian tribe.

5 (15) The term "member of an Indian group"
6 means an individual who is recognized by an Indian
7 group as meeting its membership criteria and who
8 consents in writing to being listed as a member of
9 that group.

10 (16) The term "member of an Indian tribe"
11 means an individual who meets the membership re-
12 quirements of the tribe as set forth in its governing
13 document or, in the absence of a governing docu-
14 ment which sets out these requirements, has been
15 recognized as a member collectively by those persons
16 comprising the tribal governing body; and has con-
17 sistently maintained tribal relations with the tribe or
18 is listed on the tribal membership rolls as a member,
19 if such rolls are kept.

20 (17) The term "petition" means a petition for
21 acknowledgment submitted or transferred to the
22 Commission pursuant to section 5 of this Act.

23 (18) The term "petitioner" means any group
24 which has submitted a letter of intent to the Com-

1 mission requesting acknowledgment that it is an In-
2 dian tribe.

3 (19) The term “political influence or authority”
4 means a tribal council, leadership, internal process
5 or other mechanism which the group has used as a
6 means of influencing or controlling the behavior of
7 its members in significant respects, or making deci-
8 sions for the group which substantially affect its
9 members, or representing the group in dealing with
10 non-members in matters of consequence to the
11 group. “Political influence or authority” is to be un-
12 derstood in the context of the history, culture and
13 social organization of the group.

14 (20) The term “previous Federal acknowledg-
15 ment” means any action by the Federal government
16 the character of which is clearly premised on identi-
17 fication of a tribal political entity and clearly indi-
18 cates the recognition of a government-to-government
19 relationship between that entity and the Federal
20 government.

21 (21) The term “restoration” means the
22 reextension of acknowledgment to any previously ac-
23 knowledged tribe which may have had its acknowl-
24 edged status abrogated or diminished by reason of

1 congressional legislation expressly terminating that
2 status.

3 (22) The term “Secretary” means the Secretary
4 of the Interior.

5 (23) The term “sustained contact” means the
6 period of earliest sustained Euro-American settle-
7 ment or governmental presence in the local area in
8 which the tribe or tribes from which the petitioner
9 claims descent was located historically.

10 (24) The term “treaty” means any treaty—

11 (A) negotiated and ratified by the United
12 States on or before March 3, 1871, with, or on
13 behalf of, any Indian group or tribe;

14 (B) made by any government with, or on
15 behalf of, any Indian group or tribe, from which
16 government the United States subsequently ac-
17 quired territory by purchase, conquest, annex-
18 ation, or cession; or

19 (C) negotiated by the United States with,
20 or on behalf of, any Indian group in California,
21 whether or not the treaty was subsequently
22 ratified.

23 (25) The term “tribal relations” means partici-
24 pation by an individual in a political and social rela-
25 tionship with an Indian tribe.

1 (26) The term “tribal roll” means a list exclu-
2 sively of those individuals who have been determined
3 by the tribe to meet the tribe’s membership require-
4 ments as set forth in its governing document or, in
5 the absence of a governing document setting forth
6 those requirements, have been recognized as mem-
7 bers by the tribe’s governing body. In either case,
8 those individuals on a tribal roll must have affirma-
9 tively demonstrated consent to being listed as mem-
10 bers.

11 (27) The term “United States” means the 48
12 contiguous states, Alaska and Hawaii; and does not
13 include territories or possessions.

14 **SEC. 4. COMMISSION ON INDIAN RECOGNITION.**

15 (a) ESTABLISHMENT.—There is established, as an
16 independent commission, the Commission on Indian Rec-
17 ognition.

18 (b) MEMBERSHIP.—(1)(A) The Commission shall
19 consist of three members appointed by the President, by
20 and with the advice and consent of the Senate.

21 (B) In making appointments to the Commission, the
22 President shall give careful consideration to—

23 (i) recommendations received from Indian
24 tribes;

1 (ii) individuals who have a background in In-
2 dian law or policy, anthropology, genealogy, or his-
3 tory.; and

4 (iii) individuals who, at the time of nomination,
5 are employed by the United States Government and
6 would be eligible to participate through the Intergov-
7 ernmental Personnel Exchange Act.

8 (2) No more than two members of the Commission
9 may be members of the same political party.

10 (3)(A) Each member of the Commission shall be ap-
11 pointed for a term of four years, except as provided in
12 subparagraph (B).

13 (B) As designated by the President at the time of
14 appointment, of the members first appointed—

15 (i) one shall be appointed for a term of two
16 years;

17 (ii) one shall be appointed for a term of three
18 years; and

19 (iii) one shall be appointed for a term of four
20 years.

21 (4) Any vacancy in the Commission shall not affect
22 its powers, but shall be filled in the same manner in which
23 the original appointment was made. Any member ap-
24 pointed to fill a vacancy occurring before the expiration
25 of the term for which the member's predecessor was ap-

1 pointed shall be appointed only for the remainder of that
2 term. A member may serve after the expiration of that
3 member's term until a successor has taken office.

4 (5)(A) Each member of the Commission not other-
5 wise employed by the United States Government shall re-
6 ceive compensation at a rate equal to the daily equivalent
7 of the annual rate of basic pay prescribed for level V of
8 the Executive Schedule under section 5316 of title 5,
9 United States Code, for each day, including traveltime,
10 such member is engaged in the actual performance of du-
11 ties authorized by the Commission.

12 (B) Except as provided in subparagraph (C), a mem-
13 ber of the Commission who is otherwise an officer or em-
14 ployee of the United States Government shall serve on the
15 Commission without additional compensation, but such
16 service shall be without interruption or loss of civil service
17 status or privilege.

18 (C) All members of the Commission shall be reim-
19 bursed for travel and per diem in lieu of subsistence ex-
20 penses during the performance of duties of the Commis-
21 sion while away from home or their regular place of busi-
22 ness, in accordance with subchapter I of chapter 57 of
23 title 5, United States Code.

1 (6) At the time appointments are made under para-
2 graph (1), the President shall designate one of such ap-
3 pointees as Chairman of the Commission.

4 (c) MEETINGS AND PROCEDURES.—(1) The Commis-
5 sion shall hold its first meeting no later than 30 days after
6 the date on which all members of the Commission have
7 been appointed and confirmed by the Senate.

8 (2) Two members of the Commission shall constitute
9 a quorum for the transaction of business.

10 (3) The Commission may adopt such rules (consistent
11 with the provisions of this Act) as may be necessary to
12 establish its procedures and to govern the manner of its
13 operations, organization, and personnel.

14 (4) The principal office of the Commission shall be
15 in the District of Columbia.

16 (d) DUTIES.—The Commission shall carry out the
17 duties assigned to the Commission by this Act, and shall
18 meet the requirements imposed on the Commission by this
19 Act.

20 (e) POWERS AND AUTHORITIES.—(1) Subject to such
21 rules and regulations as may be adopted by the Commis-
22 sion, the Chairman of the Commission is authorized to—

23 (A) appoint, terminate, and fix the compensa-
24 tion (without regard to the provisions of title 5,
25 United States Code, governing appointments in the

1 competitive service, and without regard to the provi-
2 sions of chapter 51 and subchapter III of chapter 53
3 of such title, or of any other provision of law, relat-
4 ing to the number, classification, and General
5 Schedule rates) of an Executive Director of the
6 Commission and of such other personnel as the
7 Chairman deems advisable to assist in the perform-
8 ance of the duties of the Commission, at a rate not
9 to exceed a rate equal to the daily equivalent of the
10 annual rate of basic pay prescribed for level V of the
11 Executive Schedule under section 5316 of title 5,
12 United States Code; and

13 (B) procure, as authorized by section 3109(b)
14 of title 5, United States Code, temporary and inter-
15 mittent services to the same extent as is authorized
16 by law for agencies in the executive branch, but at
17 rates not to exceed the daily equivalent of the annual
18 rate of basic pay prescribed for level V of the Execu-
19 tive Schedule under section 5316 of such title.

20 (2) The Commission is authorized to—

21 (A) hold such hearings and sit and act at such
22 times;

23 (B) take such testimony;

24 (C) have such printing and binding done;

1 (D) enter into such contracts and other ar-
2 rangements, subject to the availability of funds;

3 (E) make such expenditures; and

4 (F) take such other actions,

5 as the Commission may deem advisable. Any member of
6 the Commission may administer oaths or affirmations to
7 witnesses appearing before the Commission.

8 (3)(A) The Commission is authorized to secure di-
9 rectly from any officer, department, agency, establish-
10 ment, or instrumentality of the Federal Government such
11 information as the Commission may require for the pur-
12 pose of this Act, and each such officer, department, agen-
13 cy, establishment, or instrumentality is authorized and di-
14 rected to furnish, to the extent permitted by law, such in-
15 formation, suggestions, estimates, and statistics directly to
16 the Commission, upon request made by the Chairman of
17 the Commission.

18 (B) Upon the request of the Chairman of the Com-
19 mission, the head of any Federal department, agency, or
20 instrumentality is authorized to make any of the facilities
21 and services of such department, agency, or instrumental-
22 ity available to the Commission and detail any of the per-
23 sonnel of such department, agency, or instrumentality to
24 the Commission, on a nonreimbursable basis, to assist the
25 Commission in carrying out its duties under this section.

1 (C) The Commission may use the United States mails
2 in the same manner and under the same conditions as
3 other departments and agencies of the United States.

4 (f) FEDERAL ADVISORY COMMITTEE ACT.—The pro-
5 visions of the Federal Advisory Committee Act shall not
6 apply to the Commission.

7 **SEC. 5. PETITIONS FOR RECOGNITION.**

8 (a) IN GENERAL.—(1) Any Indian group may submit
9 to the Commission a petition requesting that the Commis-
10 sion recognize that the Indian group is an Indian tribe.

11 (2) The provisions of this Act do not apply to the
12 following groups or entities, which shall not be eligible for
13 recognition under this Act—

14 (A) Indian tribes, organized bands, pueblos,
15 communities, and Alaska Native entities which are
16 recognized by the Secretary as of the date of enact-
17 ment of this Act as eligible to receive services from
18 the Bureau;

19 (B) splinter groups, political factions, commu-
20 nities, or groups of any character which separate
21 from the main body of an Indian tribe that, at the
22 time of such separation, is recognized as being an
23 Indian tribe by the Secretary, unless it can be clear-
24 ly established that the group, faction, or community

1 has functioned throughout history until the date of
2 such petition as an autonomous Indian tribal entity;

3 (C) groups, or successors in interest of groups,
4 that prior to the date of enactment of this Act, have
5 petitioned for and been denied or refused recognition
6 as an Indian tribe under regulations prescribed by
7 the Secretary;

8 (D) any Indian group whose relationship with
9 the Federal Government was expressly terminated
10 by an Act of Congress; and

11 (E) any Indian group that, in any action in a
12 United States court to which the group was a party,
13 has previously attempted to establish its status as
14 an Indian tribe or a successor-in-interest to an In-
15 dian tribe that was a party to a treaty with the
16 United States, and—

17 (i) was determined by such court not to be
18 an Indian tribe; or

19 (ii) was determined by such court not to be
20 a successor-in-interest to an Indian tribe that
21 was a party to a treaty with the United States;
22 or

23 (iii) was the subject of findings of fact by
24 such court which, if made by the Commission,
25 would show that the group was incapable of es-

1 tablishing one or more of the criteria set forth
2 in this section.

3 (3)(A) No later than 30 days after the date on which
4 all of the members of the Commission have been appointed
5 and confirmed by the Senate, the Secretary shall transfer
6 to the Commission all petitions pending before the Depart-
7 ment and not then under active consideration that request
8 the Secretary, or the Federal Government, to recognize
9 or acknowledge an Indian group as an Indian tribe, except
10 those groups whose petitions are under active consider-
11 ation at the time of the transfer.

12 (B) On the date of such transfer, the Secretary and
13 the Department shall cease to have any authority to recog-
14 nize or acknowledge, on behalf of the Federal government,
15 any Indian group as an Indian tribe, except those groups
16 under active consideration whose petitions have been re-
17 tained by the Department pursuant to subparagraph (A)
18 of this paragraph.

19 (C) Petitions transferred to the Commission under
20 subparagraph (A) of this paragraph shall, for purposes of
21 this Act, be considered as having been submitted to the
22 Commission in the same order as they were submitted to
23 the Department.

24 (b) PETITION FORM AND CONTENT.—Except as pro-
25 vided in subsection (c), any petition submitted under sub-

1 section (a) by an Indian group shall be in any readable
2 form which clearly indicates that it is a petition requesting
3 the Commission to recognize that the Indian group is an
4 Indian tribe and which contains detailed, specific evidence
5 as to each of the following:

6 (1) A statement of facts establishing that the
7 petitioner has been identified as an American Indian
8 entity on a substantially continuous basis since
9 1871. Evidence that the group's character as an In-
10 dian entity has from time to time been denied shall
11 not be considered to be conclusive evidence that this
12 criterion has not been met. Evidence to be relied
13 upon in determining a group's Indian identity may
14 include one or a combination of the following, as well
15 as other evidence of identification by other than the
16 petitioner itself or its members:

17 (A) Identification of the petitioner as an
18 Indian entity by Federal authorities.

19 (B) Relationships of the petitioner with
20 State governments based on identification of
21 the petitioner as an Indian entity.

22 (C) Dealings of the petitioner with a coun-
23 ty, parish, or other local government in a rela-
24 tionship based on the Indian identity of the pe-
25 titioner.

1 (D) Identification of the petitioner as an
2 Indian entity by records in private or public ar-
3 chives, courthouses, churches, or schools.

4 (E) Identification of the petitioner as an
5 Indian entity by anthropologists, historians, or
6 other scholars.

7 (F) Identification of the petitioner as an
8 Indian entity in newspapers, books, or similar
9 media.

10 (G) Identification of the petitioner as an
11 Indian entity by other Indian tribes or by na-
12 tional, regional, or state Indian organizations.

13 (H) Identification of the petitioner as an
14 Indian entity by foreign governments or inter-
15 national organizations.

16 (2)(A) A statement of facts establishing that a
17 predominant portion of the membership of the peti-
18 tioner comprises a community distinct from those
19 surrounding it and has existed as a community from
20 historical times to the present. Evidence to be relied
21 upon in determining that the petitioner meets this
22 criterion may include one or a combination of the
23 following:

24 (i) Significant rates of marriage within the
25 group, or, as may be culturally required, pat-

1 turned out-marriages with other Indian popu-
2 lations.

3 (ii) Significant social relationships connect-
4 ing individual members.

5 (iii) Significant rates of informal social
6 interaction which exist broadly among the mem-
7 bers of a group.

8 (iv) A significant degree of shared or coop-
9 erative labor or other economic activity among
10 the membership.

11 (v) Evidence of strong patterns of discrimi-
12 nation or other social distinctions by non-mem-
13 bers.

14 (vi) Shared sacred or secular ritual activity
15 encompassing most of the group.

16 (vii) Cultural patterns shared among a sig-
17 nificant portion of the group that are different
18 from those of the non-Indian populations with
19 whom it interacts. These patterns must func-
20 tion as more than a symbolic identification of
21 the group as Indian, and may include, but are
22 not limited to, language, kinship or religious or-
23 ganizations, or religious beliefs and practices.

24 (viii) The persistence of a named, collective
25 Indian identity continuously over a period of

1 more than 50 years, notwithstanding changes in
2 name.

3 (ix) A demonstration of historical political
4 influence pursuant to the criterion set forth in
5 paragraph (3).

6 (B) A petitioner shall be considered to have
7 provided sufficient evidence of community at a given
8 point in time if evidence is provided demonstrating
9 any one of the following:

10 (i) More than 50 percent of the members
11 reside in a particular geographical area exclu-
12 sively or almost exclusively composed of mem-
13 bers of the group, and the balance of the group
14 maintains consistent social interaction with
15 some members of the community.

16 (ii) At least 50 percent of the marriages of
17 the group are between members of the group.

18 (iii) At least 50 percent of the group mem-
19 bers maintain distinct cultural patterns such as,
20 but not limited to, language, kinship or reli-
21 gious organizations, or religious beliefs or prac-
22 tices.

23 (iv) There are distinct community social
24 institutions encompassing a substantial portion
25 of the members, such as kinship organizations,

1 formal or informal economic cooperation, or re-
2 ligious organizations. or

3 (v) The group has met the criterion in
4 paragraph (3) using evidence described in para-
5 graph (3)(B).

6 (3)(A) A statement of facts establishing that
7 the petitioner has maintained political influence or
8 authority over its members as an autonomous entity
9 from historical times until the present. Evidence to
10 be relied upon in determining that the petitioner
11 meets this criterion may include one or a combina-
12 tion of the following:

13 (i) The group is able to mobilize significant
14 numbers of members and significant resources
15 from its members for group purposes.

16 (ii) Most of the membership considers is-
17 sues acted upon or taken by group leaders or
18 governing bodies to be of personal importance.

19 (iii) There is a widespread knowledge, com-
20 munication and involvement in political proc-
21 esses by most of the group's members.

22 (iv) The group meets the criterion in para-
23 graph (2) at more than a minimal level.

1 (v) There are intragroup conflicts which
2 show controversy over valued group goals, prop-
3 erties, policies, processes or decisions.

4 (B) A petitioner shall be considered to have
5 provided sufficient evidence to demonstrate the exer-
6 cise of political influence or authority at a given
7 point in time by demonstrating that group leaders or
8 other mechanisms exist or existed which:

9 (i) Allocate group resources such as land,
10 residence rights or the like on a consistent
11 basis.

12 (ii) Settle disputes between members or
13 subgroups such as clans or moieties by medi-
14 ation or other means on a regular basis.

15 (iii) Exert strong influence on the behavior
16 of individual members, such as the establish-
17 ment or maintenance of norms and the enforce-
18 ment of sanctions to direct or control behavior.

19 (iv) Organize or influence economic sub-
20 sistence activities among the members, includ-
21 ing shared or cooperative labor.

22 (C) A group that has met the requirements in
23 paragraph (2)(B) at a given point in time shall be
24 considered to have provided sufficient evidence to
25 meet this criterion at that same point in time.

1 (4) A copy of the petitioner's present governing
2 document including its membership criteria. In the
3 absence of a written document, the petitioner must
4 provide a statement describing in full its member-
5 ship criteria and current governing procedures.

6 (5) A list of all current members of the peti-
7 tioner including each member's full name (and maid-
8 en name, if any), date and place of birth, and cur-
9 rent residential address, as well as a copy of each
10 available former list of members based on the peti-
11 tioner's own defined criteria, and a statement de-
12 scribing the methods used in preparing those lists.
13 The membership must consist of individuals who
14 have established descendency from an Indian group
15 which existed historically or from historical Indian
16 groups which combined and functioned as a single
17 autonomous entity. Evidence of tribal membership
18 required by the Commission includes (but is not lim-
19 ited to)—

20 (A) descendency rolls prepared by the Sec-
21 retary for the petitioner for purposes of distrib-
22 uting claims money, providing allotments, or
23 other purposes;

24 (B) State, Federal, or other official records
25 or evidence identifying present members of the

1 petitioner, or ancestors of present members of
2 the petitioner, as being descendants of a his-
3 toric tribe or historic tribes that combined and
4 functioned as a single autonomous political en-
5 tity;

6 (C) church, school, and other similar en-
7 rollment records identifying present members or
8 ancestors of present members as being descend-
9 ants of a historic tribe or historic tribes that
10 combined and functioned as a single autono-
11 mous political entity;

12 (D) affidavits of recognition by tribal el-
13 ders, leaders, or the tribal governing body iden-
14 tifying present members or ancestors of present
15 members as being descendants of a historic
16 tribe or historic tribes that combined and func-
17 tioned as a single autonomous political entity;
18 and

19 (E) other records or evidence identifying
20 present members or ancestors of present mem-
21 bers as being descendants of a historic tribe or
22 historic tribes that combined and functioned as
23 a single autonomous political entity.

1 (c) EXCEPTIONS.—A petition from an Indian group
2 which can demonstrate by a preponderance of the evidence
3 that it was, or is the successor in interest to, a—

4 (1) party to a treaty or treaties;

5 (2) group acknowledged by any agency of the
6 Federal Government as eligible to participate in the
7 Indian Reorganization Act of 1934 (25 U.S.C. 461
8 et seq.);

9 (3) group for the benefit of which the United
10 States took into trust land or lands, or which the
11 Federal government has treated as having collective
12 rights in tribal lands or funds; or

13 (4) group has been denominated a tribe by Act
14 of Congress or Executive Order,

15 shall be required to establish the criteria set forth in this
16 section only from the date of that Federal action to the
17 present.

18 **SEC. 6. NOTICE OF RECEIPT OF PETITION.**

19 (a) PETITIONER.—Within 30 days after a petition is
20 submitted or transferred to the Commission under section
21 5(a), the Commission shall send an acknowledgement of
22 receipt in writing to the petitioner and shall have pub-
23 lished in the Federal Register a notice of such receipt, in-
24 cluding the name, location, and mailing address of the pe-
25 titioner and such other information that will identify the

1 entity who submitted the petition and the date the petition
2 was received by the Commission. The notice shall also in-
3 dicate where a copy of the petition may be examined.

4 (b) OTHERS.—The Commission shall also notify, in
5 writing, the Governor and attorney general of, and each
6 recognized Indian tribe within, any State in which a peti-
7 tioner resides.

8 (c) PUBLICATION; OPPORTUNITY FOR SUPPORTING
9 OR OPPOSING SUBMISSIONS.—The Commission shall pub-
10 lish the notice of receipt of the petition in a major news-
11 paper of general circulation in the town or city nearest
12 the location of the petitioner. The notice shall include, in
13 addition to the information described in subsection (a), no-
14 tice of opportunity for other parties to submit factual or
15 legal arguments in support of or in opposition to, the peti-
16 tion. Such submissions shall be provided to the petitioner
17 upon receipt by the Commission. The petitioner shall be
18 provided an opportunity to respond to such submissions
19 prior to a determination on the petition by the Commis-
20 sion.

21 **SEC. 7. PROCESSING THE PETITION.**

22 (a) REVIEW.—(1) Upon receipt of a *documented* peti-
23 tion, the Commission shall conduct a review to determine
24 whether the petitioner is entitled to be recognized as an
25 Indian tribe.

1 (2) The review conducted under paragraph (1) shall
2 include consideration of the petition, supporting evidence,
3 and the factual statements contained in the petition.

4 (3) The Commission may also initiate other research
5 for any purpose relative to analyzing the petition and ob-
6 taining additional information about the petitioner's sta-
7 tus and may consider any evidence which may be submit-
8 ted by other parties.

9 (4) Upon request by the petitioner, the Library of
10 Congress and the National Archives shall each allow ac-
11 cess to the petitioner to its resources, records, and docu-
12 ments, for the purpose of conducting research and prepar-
13 ing evidence concerning the status of the petitioner.

14 (b) CONSIDERATION.—(1) Except as otherwise pro-
15 vided in this subsection, petitions shall be considered on
16 a first come, first served basis, determined by the date
17 of the original filing of the petition with the Commission,
18 or the Department if the petition is one transferred to the
19 Commission pursuant to section 5(a). The Commission
20 shall establish a priority register including those petitions
21 pending before the Department on the date of enactment
22 of this Act.

23 (2) Petitions that are submitted to the Commission
24 by Indian groups that meet one or more of the require-
25 ments set forth in section 5(c) shall receive priority consid-

1 eration over petitions submitted by any other Indian
2 group.

3 **SEC. 8. PRELIMINARY HEARING.**

4 (a) IN GENERAL.—Within 60 days after the receipt
5 of a petition by the Commission, the Commission shall set
6 a date for a preliminary hearing. At the preliminary hear-
7 ing, the petitioner and any other concerned party may pro-
8 vide evidence concerning the status of the petitioner.

9 (b) DETERMINATION.—(1) Within 30 days after the
10 conclusion of the preliminary hearing under subsection
11 (a), the Commission shall make a determination either—

12 (A) to extend Federal acknowledgement to the
13 petitioner; or

14 (B) that the petitioner proceed to an adjudica-
15 tory hearing.

16 (2) The Commission shall publish the determination
17 in the Federal Register.

18 (c) INFORMATION TO BE PROVIDED PREPARATORY
19 TO AN ADJUDICATORY HEARING.—(1) If the Commission
20 determines under subsection (b) that the petitioner pro-
21 ceed to an adjudicatory hearing, the Commission shall—

22 (A) make available its appropriate evidentiary
23 records to the petitioner to assist the petitioner in
24 preparing for the adjudicatory hearing, and shall
25 also include such guidance as the Commission con-

1 siders necessary or appropriate to assist the peti-
2 tioner in preparing for the hearing; and

3 (B) within 30 days after the conclusion of the
4 preliminary hearing under subsection (a), notify the
5 petitioner in writing, which notice shall include a list
6 of any deficiencies or omissions on which the Com-
7 mission relied in making its determination.

8 (2) The list of deficiencies and omissions provided
9 under paragraph (1)(B) shall be the subject of the adju-
10 dicatory hearing. The Commission may not add to this list
11 once it is issued.

12 **SEC. 9. ADJUDICATORY HEARING.**

13 (a) IN GENERAL.—Within 180 days after the conclu-
14 sion of the preliminary hearing, the Commission shall af-
15 ford the petitioner described in section 8(b)(1)(B) an adju-
16 dicatory hearing. The hearing shall be on the list of defi-
17 ciencies and omissions provided under section 8(c)(1)(B)
18 and shall be conducted pursuant to section 554 of title
19 5, United States Code.

20 (b) TESTIMONY FROM STAFF OF COMMISSION.—The
21 Commission may require testimony from its acknowledge-
22 ment and research staff or other witnesses. Any such testi-
23 mony shall be subject to cross-examination by the peti-
24 tioner.

1 (c) EVIDENCE BY PETITIONER.—The petitioner may
2 provide such evidence as the petitioner deems appropriate.

3 (d) DECISION BY COMMISSION.—Within 60 days
4 after the end of the hearing held under subsection (a),
5 the Commission shall—

6 (1) make a determination as to the extension or
7 denial of Federal acknowledgment to the petitioner;

8 (2) publish its determination under paragraph
9 (1) in the Federal Register; and

10 (3) deliver a copy of the determination to the
11 petitioner, and to every other interested party.

12 **SEC. 10. APPEALS.**

13 (a) IN GENERAL.—Within 60 days after the date the
14 Commission's decision is published under section 9(d), the
15 petitioner may appeal the determination to the United
16 States District Court for the District of Columbia.

17 (b) ATTORNEY FEES.—If the petitioner prevails in
18 the appeal described in subsection (a), it shall be eligible
19 for an award of reasonable attorney fees and costs under
20 the provisions of section 504 of title 5, United States
21 Code, or section 2412 of title 28 of such Code, as the case
22 may be.

1 **SEC. 11. EFFECT OF DETERMINATIONS.**

2 A determination by the Commission that an Indian
3 group is recognized by the Federal Government as an In-
4 dian tribe shall not have the effect of—

5 (1) depriving or diminishing the right of any
6 other Indian tribe to govern its reservation as such
7 reservation existed prior to the recognition of such
8 Indian group, or as the same may exist thereafter;

9 (2) depriving or diminishing any property right
10 held in trust or recognized by the United States for
11 such other Indian tribe as it existed prior to the rec-
12 ognition of such Indian group; or

13 (3) depriving or diminishing any previously or
14 independently existing claim by a petitioner to any
15 such property right held in trust by the United
16 States for such other Indian tribe prior to the rec-
17 ognition of such Indian group.

18 **SEC. 12. IMPLEMENTATION OF DECISIONS.**

19 (a) ELIGIBILITY FOR SERVICES AND BENEFITS.—(1)
20 Subject to paragraph (2), upon recognition by the Com-
21 mission that the petitioner is an Indian tribe, the Indian
22 tribe shall be eligible for the services and benefits from
23 the Federal Government that are available to other feder-
24 ally recognized Indian tribes by virtue of their status as
25 Indian tribes with a government-to-government relation-
26 ship with the United States, as well as having the respon-

1 sibilities and obligations of such Indian tribes. Such rec-
2 ognition shall subject the Indian tribes to the same au-
3 thority of Congress and the United States to which other
4 federally recognized tribes are subject.

5 (2) Recognition of the Indian tribe under this Act
6 does not create an immediate entitlement to existing pro-
7 grams of the Bureau. Such programs shall become avail-
8 able upon appropriation of funds by law. Requests for ap-
9 propriations shall follow a determination under subsection
10 (b) of the needs of the newly recognized Indian tribe.

11 (b) NEEDS DETERMINATION.—Within 6 months
12 after an Indian tribe is recognized under this Act, the ap-
13 propriate area offices of the Bureau and the Indian Health
14 Service shall consult and develop in cooperation with the
15 Indian tribe, and forward to the respective Secretary, a
16 determination of the needs of the Indian tribe and a rec-
17 ommended budget required to serve the newly recognized
18 Indian tribe. The recommended budget shall be considered
19 along with recommendations by the appropriate Secretary
20 in the budget-request process.

21 **SEC. 13. ANNUAL REPORT CONCERNING COMMISSION'S AC-**
22 **TIVITIES.**

23 (a) LIST OF RECOGNIZED TRIBES.—Not later than
24 90 days after the date of the enactment of this Act, and
25 annually on or before every January 30 thereafter, the

1 Commission shall publish in the Federal Register a list
2 of all Indian tribes which are recognized by the Federal
3 Government and receiving services from the Bureau of In-
4 dian Affairs.

5 (b) ANNUAL REPORT.—Beginning one year after the
6 date of the enactment of this Act, and annually thereafter,
7 the Commission shall submit a report to the Committee
8 on Natural Resources of the House of Representatives and
9 to the Committee on Indian Affairs of the Senate a report
10 on its activities, which shall include at a minimum the fol-
11 lowing:

12 (1) The number of petitions pending at the be-
13 ginning of the year and the names of the petitioners.

14 (2) The number of petitions received during the
15 year and the names of the petitioners.

16 (3) The number of petitions the Commission
17 approved for acknowledgment and the names of the
18 acknowledged petitioners.

19 (4) The number of petitions the Commission
20 denied for acknowledgement and the names of the
21 petitioners.

22 (5) The status of all pending petitions and the
23 names of the petitioners.

1 **SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.**

2 Any petitioner may bring an action in the district
3 court of the United States for the district in which the
4 petitioner resides, or the United States District Court for
5 the District of Columbia, to enforce the provisions of this
6 Act, including any time limitations within which actions
7 are required to be taken, or decisions made, under this
8 Act and the district court shall issue such orders (includ-
9 ing writs of mandamus) as may be necessary to enforce
10 the provisions of this Act.

11 **SEC. 15. REGULATIONS.**

12 The Commission is authorized to prescribe such regu-
13 lations as may be necessary to carry out the provisions
14 and purposes of this Act. All such regulations must be
15 published in accordance with the provisions of title 5,
16 United States Code.

17 **SEC. 16. GUIDELINES AND ADVICE.**

18 (a) GUIDELINES.—No later than 90 days after the
19 date of enactment of this Act, the Commission shall make
20 available suggested guidelines for the format of petitions,
21 including general suggestions and guidelines on where and
22 how to research required information, but such examples
23 shall not preclude the use of any other format.

24 (b) RESEARCH ADVICE.—The Commission, upon re-
25 quest, is authorized to provide suggestions and advise to
26 any petitioner for his research into the petitioner's histori-

1 cal background and Indian identity. The Commission shall
2 not be responsible for the actual research on behalf of the
3 petitioner.

4 **SEC. 17. ASSISTANCE TO PETITIONERS.**

5 (a) GRANTS.—(1) The Secretary of Health and
6 Human Services may award grants to Indian groups seek-
7 ing Federal recognition to enable the Indian groups to—

8 (A) conduct the research necessary to substan-
9 tiate petitions under this Act; and

10 (B) prepare documentation necessary for the
11 submission of a petition under this Act.

12 (2) The grants made under this subsection shall be
13 in addition to any other grants the Secretary of Health
14 and Human Services is authorized to provide under any
15 other provision of law.

16 (b) COMPETITIVE AWARD.—Grants provided under
17 subsection (a) shall be awarded competitively based on ob-
18 jective criteria prescribed in regulations promulgated by
19 the Secretary of Health and Human Services.

20 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) COMMISSION.—There are authorized to be appro-
22 priated for the Commission for the purpose of carrying
23 out the provisions of this Act (other than section 15 17),
24 \$1,500,000 for fiscal year 1995 and \$1,500,000 for each
25 of the 12 succeeding fiscal years.

1 (b) SECRETARY OF HHS.—There are authorized to
2 be appropriated for the Administration for Native Ameri-
3 cans of the Department of Health and Human Services
4 for the purpose of carrying out the provisions of section
5 17, \$3,000,000 for each fiscal year.

Passed the House of Representatives October 3,
1994.

Attest:

Clerk.

103D CONGRESS
2D SESSION

H. R. 4462

AN ACT

To provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes.